

Employers' Secretary, Sarah Messenger
Local Government House, Smith Square,
London, SW1P 3HZ
Telephone 020 7187 7335
e-mail: firequeries@lge.gov.uk

Employees' Secretary, Matt Wrack
Bradley House, 68 Coombe Rd
Kingston upon Thames KT2 7AE
Telephone 020 8541 1765

NATIONAL JOINT COUNCIL FOR LOCAL AUTHORITY FIRE AND RESCUE SERVICES

**To: Chief Fire Officers
Chief Executives/Clerks to Fire Authorities
Chairs of Fire Authorities
Directors of Human Resources at Fire Authorities**

Members of the National Joint Council

11 January 2011

CIRCULAR NJC/02/11

Dear Sir/Madam

Changes to the maternity, paternity and adoption provisions – scheme of conditions of service (Grey Book)

1. Maternity, paternity and adoption provisions are contained within Section 4, part D of the Scheme of Conditions of Service (Grey Book).
2. Authorities will be aware that the National Joint Council has been considering a claim from the Employees' Side seeking improvements in these provisions.
3. Authorities will also be aware that there have been a number of changes in the statutory position relating to these matters since issue of the Grey Book in 2004.
4. We write to advise you that the National Joint Council has now agreed a number of changes to these provisions, together with a joint statement based on good practice.
5. The opportunity was also taken to provide greater clarity to a small number of the pre-existing provisions.
6. Attached as **Appendix A** is a version of the maternity, paternity and adoption provisions contained within the Scheme of Conditions of Service (Grey Book) amended to show changes resulting from:
 - the claim (in red)
 - greater clarity to existing provisions (in green)
 - updating the provisions in light of statutory change (in blue).

7. Attached as **Appendix B** are the provisions as they stand with immediate effect.
8. The joint statement arising from this work is attached as **Appendix C**.

Yours faithfully
SARAH MESSENGER
MATT WRACK
Joint Secretaries

APPENDIX A

SCHEME OF CONDITIONS OF SERVICE SIXTH EDITION 2004

PART D - MATERNITY, CHILDCARE AND DEPENDENCY

Maternity provisions

1. As equal opportunities employers, fire and rescue authorities acknowledge that more and more women are coping with the responsibilities of work and home. To this end fire and rescue authorities are committed to creating a positive working environment in which all employees are respected, provided with progression opportunities and can make the most of their abilities within a team.
2. Pregnant employees should expect to be treated in a way that is sensitive to their circumstances and should not in any way be singled out for inferior treatment. Pregnancy should be regarded as part of everyday life and any health and safety implications can be adequately addressed by the usual procedures for the management of health and safety.
3. Nothing in the following provisions, which are minima that may be enhanced locally, should be construed as providing anything less favourable than statutory rights.

Obligations on the employer

4. Fire and rescue authorities should have in place policies that reflect these provisions and any local enhancements. Copies of such policies should be openly available to employees.
5. Pregnant women and new mothers have a statutory entitlement not to be exposed to risks that could harm either themselves or their unborn child. Fire and rescue authorities are reminded that:
 - (1) The Workplace (Health, Safety and Welfare) Regulations 1992 require employers to provide, ~~where reasonable~~, suitable rest facilities for pregnant ~~woman~~ women and nursing mothers. This is expanded upon in the Health and Safety Executive guidance *New and Expectant Mothers at Work: A Guide for Employers*.
 - (2) The Management of Health and Safety at Work Regulations 1999 require employers to carry out a risk assessment in respect of new or expectant mothers. Temporary adjustments in working arrangements may be required as a result.

6. Fire and rescue authorities are advised that, when pregnancy is suspected, medical advice should be sought immediately as to whether the employee can continue to perform her current duties. ~~At~~ If ~~the~~ a point is reached where ~~when~~ her doctor advises her that she can no longer perform her current duties, or work her current pattern of hours, the employee should be consulted immediately over appropriate changes. In either case she shall continue to receive her normal pay (for employees on the retained duty system this shall be calculated in accordance with paragraph 36 below). Similarly, on her return to work following the birth and ~~normal~~ maternity leave, there may be a period during which a change in duties or pattern of working hours would be appropriate, again depending on medical advice, in which case the ~~member's employee's~~ normal pay would continue to apply.
7. Pregnant employees will normally remain on their watch, or in their department, unless this is deemed inappropriate following an individual risk assessment.
8. On receipt of the employee's notification of the intended date of commencement of maternity leave, the fire and rescue authority shall, within twenty-eight days, inform the employee of the day on which the maternity leave period will cease and of the date of return to work.
9. **Contractual benefits such as mobile phones where personal use is permitted and car allowances that are paid under the scheme of conditions of service will continue during maternity leave.**

Obligations on the employee

10. In order to maximise the effectiveness of health protection through an individual risk assessment an employee should notify the fire and rescue authority as soon as possible after she becomes aware of her pregnancy. In any event, an employee shall notify the fire and rescue authority at least twenty-one days before her absence begins or as soon as is reasonably practicable:
 - (1) That she is pregnant and the expected week of childbirth (EWC). The fire and rescue authority may ask the employee to produce a certificate from a registered medical practitioner or a certified midwife stating the EWC.
 - (2) The date that her absence will commence, in writing if requested by the fire and rescue authority.
 - (3) That she intends to return to work, if that is the case. The authority may ask for this to be confirmed in writing. (This provision applies only to employees who qualify under paragraph 19 below).
11. As the pregnancy develops the employee should inform the fire and rescue authority, in writing if required, of any advice or recommendations received from her doctor. This may include advice that should be considered as part of the individual's risk assessment, such as night work being inadvisable for health and safety reasons.

Ante-natal care

12. Pregnant employees are entitled to paid time off to attend for ante-natal care, including relaxation and parentcraft classes. The fire and rescue authority may request evidence of appointments.
13. Fire and rescue authorities may wish to give sympathetic consideration, subject to the exigencies of the service, to reasonable time off for partners to attend ante-natal, relaxation and parentcraft classes.

Maternity leave

- ~~13. An employee who has less than twenty-six weeks' continuous local government service at the end of the fifteenth week before the EWC shall be entitled to remain absent for up to twenty-six weeks. The employee may then take further leave without pay at the discretion of the fire and rescue authority.~~
14. All employees who has at least twenty-six weeks' continuous local government service at the end of the fifteenth week before the EWC shall be entitled to twenty-six weeks' ordinary maternity leave with pay (see paragraph 18 below) and up to twenty-six weeks' additional maternity leave, providing a right to one year's maternity leave in total, (the maternity leave period).
15. Maternity leave shall commence no earlier than eleven weeks before the EWC. Where maternity leave has not commenced by the time of the birth it shall start on the day ~~of~~ following the birth.
16. Additional maternity leave commences on the day following the last day of ordinary maternity leave.

Keeping in touch days

17. Employees on maternity leave can return to work on a voluntary basis during their maternity leave for a maximum of ten days. These days are known as Keeping in touch or KIT days. Employees who attend work should receive their normal hourly pay for any hours worked on a voluntary KIT day in addition to their SMP for that week. Any such work must be by agreement between the fire authority and the employee. ~~The pay is pensionable.~~
18. Mileage and subsistence will be paid in accordance with local practice if KIT days take place away from the employee's usual workplace.

Maternity pay

19. An employee who has less than a year's continuous local government service at the beginning of the eleventh week before the EWC shall ~~be entitled receive their entitlement~~ to Statutory Maternity Pay (SMP).
20. An employee who has completed at least a year's continuous local government service at the eleventh week before the EWC shall be entitled to the following:

- (1) For the first six weeks of absence, nine-tenths of a week's pay offset against SMP, or Maternity Allowance (MA) for employees not eligible for SMP.
- (2) (a) Where she has declared an intention to return to work, half a week's pay for the subsequent twelve weeks, without deduction except by the extent to which the combined pay and SMP (or MA and any dependants' allowances if she is not eligible for SMP) exceeds full pay. ~~For the remaining twenty-one weeks, SMP if she is eligible.~~
- ~~(3) For the remaining eight weeks, SMP if she is eligible.~~
- (b) Where she does not intend to return to work, SMP for the subsequent ~~twenty~~ thirty-three weeks.
- (35) Payments under (2) shall be on the understanding that the employee shall return to work for at least three months, which may be varied by the fire and rescue authority on good cause being shown. In the event of her not returning to work, the fire and rescue authority may require her to refund all or part of the payments made. Payments made to the employee by way of SMP are not refundable.

Right to return to work

21. Subject to paragraph 22 below, the employee shall have the right to return to the job in which she was employed under her original contract of employment and on terms and conditions not less favourable than those that would have been applicable if she had not been absent. For this purpose 'job' means the nature of the work that she is employed to do and the capacity and place in which she is so employed.
22. Where it is not practicable by reason of redundancy for the authority to permit an employee to return to her work as defined in paragraph 21 above, the employee shall be entitled to be offered a suitable alternative vacancy where one exists, provided that the work to be done in that post is suitable to her and appropriate to the circumstances, and that the capacity and place in which she is to be employed and her terms and conditions of employment are not substantially less favourable to her than if she had been able to return to the job in which she was originally employed.
23. Suitable alternative employment may also be offered if exceptional circumstances other than redundancy (such as a general reorganisation), which would have occurred if the employee had not been absent, necessitate a change in the job in which she was employed prior to her absence. The work to be done should be suitable to her and appropriate to the circumstances and the capacity and place in which she is to be employed and her terms and conditions of employment should not be less favourable to her than if she had been able to return to the job in which she was originally employed.

~~Exercise of the right to~~ *Return to work before the end of maternity leave*

24. An employee ~~who qualifies for leave under paragraph 13 above~~ shall notify the fire and rescue authority, in writing if requested, at least twenty-one days before she

intends to return to work, if this is before the end of her **ordinary** maternity leave period. This notice period may be reduced with the consent of the authority.

25. Any further change of return to work date can only be made where more than eight weeks' notice of the intended date of return has been provided in the first place:

(1) Where the new date is before the previously provided return to work date an employee must give a fire and rescue service eight weeks' notice of the new date.

(2) Where the new date is later than the original or previously notified date the fire and rescue service requires eight weeks' notice prior to the original or previously notified return date.

These notice periods may be reduced with the consent of the authority.

- ~~23. An employee who qualifies for leave under paragraph 14 above shall notify the fire and rescue authority, in writing if requested, at least twenty-one days before she intends to return to work, if this is before the end of her additional maternity leave. This notice period may be reduced with the consent of the authority.~~

26. If an employee returns to work before the end of **the a** maternity leave period without having provided the necessary notice under paragraphs 24 or 25 above, the fire and rescue authority may postpone her return to a date that will ensure that the authority has received **the relevant** notice, or to the end of the **relevant** maternity leave period if that is sooner.
27. Where, because of an interruption of work (whether due to industrial action or some other reason), it is unreasonable to expect an employee to return at the end of her maternity leave or on the date notified under paragraph 24 or 25 above, she may instead return when work resumes or as soon as reasonably practicable thereafter.
28. An employee should attend a health check with the occupational health unit before returning to operational firefighting duties.

Relationship with sickness, leave and public holidays

29. Maternity leave will not be treated as sick leave and will not therefore be taken into account in calculating sick leave entitlement.
30. An employee who is unable to return to work on the expected date due to sickness will still be regarded as having returned to work. The sickness should be notified and certified in the same way as any other period of sickness under paragraph 21 of Section 5 Part B. **Any pregnancy-related sickness absence must be recorded separately and should not be included in the employee's total sickness absence for disciplinary or redundancy purposes.**
31. Maternity leave shall be regarded as service for the purpose of calculating annual leave entitlement.

32. An employee who is on ordinary or additional maternity leave on a public holiday shall be granted a day's leave in lieu of that public holiday.

Premature birth

33. Where a baby is born prematurely the fire and rescue authority should consider the case on its merits and use its discretion to take any appropriate action, which may include extending maternity leave.

Death or still birth of a child

34. These maternity provisions continue to apply where a baby dies or is stillborn after twenty-four weeks' pregnancy. Where a miscarriage occurs before twenty-four weeks the fire and rescue authority should give sympathetic consideration based on the individual circumstances and grant special leave or sick leave as appropriate. The authority's decision should have regard to the needs of the employee and medical opinion.

Definition of a week's pay

35. For employees not on the retained duty system a week's pay means the amount payable to the employee under the current contract of employment for working her normal hours in a week.
36. For employees on the retained duty system a week's pay during a period of maternity leave shall mean the employee's average weekly remuneration in the previous twelve weeks (excluding any week in which they have been on sick leave or have received no pay), taking all payments into account.

Definition of childbirth

37. Childbirth means the birth of a living child or a stillbirth after a pregnancy lasting at least twenty-four weeks.

Maternity support leave (incorporating paternity leave)

38. An employee with less than twenty-six weeks' continuous local government service at the fourteenth week before the EWC and who is the child's father, the expectant mother's partner or the expectant mother's nominated carer shall be entitled to a week's paid maternity support leave (which shall equate to seven consecutive days free from duty). A nominated carer is the person nominated by the mother to assist in the care of the child and to provide support to the mother at or around the time of the birth.
39. An employee who has at least twenty-six weeks' continuous local government service at the fourteenth week before the EWC shall in addition be entitled to a further week's leave (to be taken immediately following the first week). [Where](#)

eligible this will be paid in accordance with ~~at the~~ Statutory Paternity Pay (SPP) rate.

40. These provisions also apply to an adoptive mother or father who is not taking adoption leave.
41. Pay for maternity support leave shall be offset by SPP where applicable.

Adoption leave

42. Employees should try to make arrangements for placement and match meetings in their own time. However, where this cannot be accommodated up to three days paid time off will be allowed up to placement.
43. An employee who meets the following criteria is entitled to up to twenty-six weeks' ordinary adoption leave followed by up to twenty-six weeks' additional adoption leave providing a right to one year's adoption leave in total (the adoption leave period):
 - (1) The employee has been newly matched with a child for adoption by an adoption agency.
 - (2) The employee has at least twenty-six weeks' continuous local government service ending with the week in which he or she is notified they are to be have been matched with a child for adoption.
 - (3) Where a couple is adopting jointly, the employee is the adoptive parent (mother or father) chosen by the couple to take adoption leave.
44. During the first week of ordinary adoption leave the employee will be entitled to full pay, offset by Statutory Adoption Pay (SAP). For the remainder following 38 weeks of the ordinary adoption leave period the employee will be entitled to SAP if eligible. ~~Additional adoption leave will be unpaid.~~
45. Leave may commence from either the date of the child's placement (whether this is earlier or later than expected) or a fixed date that can be up to fourteen days before the expected date of placement.
46. The employee shall notify the fire and rescue authority of his or her intention to take adoption leave within seven days of being notified by the adoption agency that he or she has been matched with a child for adoption, unless that is not reasonably practicable. The notification must state when the child is expected to be placed with the employee and when the employee wants the adoption leave to start.
47. The employee must advise the fire and rescue authority at least twenty-eight days in advance if he or she wishes to alter the adoption leave start date.
48. The fire and rescue authority will respond to the employee within twenty-eight days of receiving his or her leave plans, setting out the date on which the authority

expects the employee to return to work if the full entitlement to adoption leave is taken.

49. The employee must provide documentary evidence of the adoption where requested by the fire and rescue authority and of his or her entitlement to SAP.
50. An employee who intends to return to work at the end of his or her full adoption leave entitlement is not required to give any further notification to the fire and rescue authority.
51. An employee who wishes to return to work before the end of the adoption leave period must give twenty-eight days' notice to the fire and rescue authority. If such notice is not provided the authority may postpone the return until twenty-eight days from the notice being received, [or to the end of the adoption leave period, if sooner.](#)
52. [Contractual benefits such as mobile phones where personal use is permitted and car allowances that are paid under this scheme of conditions of service will continue during adoption leave.](#)
53. [Employees on ~~maternity~~ adoption leave can return to work on a voluntary basis during their ~~maternity~~-adoption leave for a maximum of ten days. These days are known as Keeping in touch or KIT days. Employees who attend work should receive their normal hourly pay for any hours worked on a voluntary KIT day in addition to their Statutory Adoption Pay \(SAP\) for that week. Any such work must be by agreement between the fire authority and the employee.](#)
54. [Mileage and subsistence will be paid in accordance with local practice if KIT days take place away from the employee's usual workplace.](#)

Parental leave

55. An employee who has successfully completed initial training (or has at least a year's service if that is sooner) and who is one of the following shall be entitled to up to thirteen calendar weeks' unpaid parental leave (eighteen weeks if the child has a disability) in parts or in a block following the birth or adoption of a child:
 - (1) The mother of the child.
 - (2) The father of the child if he was married to the mother at the time of birth or is registered as the child's father.
 - (3) The father (if not covered by (2)) if he has acquired parental responsibility under the Children Act 1989 or Children (Scotland) Act 1985. This is done either by a court order or an agreement between the mother and father that complies with legal requirements.
 - (4) A guardian appointed under Section 5 of the Children Act 1989.
 - (5) An adoptive parent.
 - (6) Any other nominated carer where the fire and rescue authority is satisfied that that person is taking parental responsibility.
 - (7) [A step-parent if they have acquired parental responsibility under the Children Act 1989 either through a court order or an agreement between](#)

the mother (or mother and father) and the step-parent which complies with certain legal requirements.

(8) A special guardian as referred to in section 14C of the Children Act 1989.

56. The employee must give the fire and rescue authority reasonable notice (a minimum of twenty-one days) when leave is to be taken.
57. Where there are pressing operational reasons the fire and rescue authority may postpone parental leave for no longer than six months from the start of the period requested. (Pressing operational reasons include circumstances where a replacement cannot be found during the notice period for a post that has to be filled or where a significant number of employees have applied for parental leave at the same time). Where the authority requires such postponement, the situation should firstly be discussed with the employee. The employee must then be advised, in writing, no later than seven days after giving notice to take leave, of the reason for the postponement and the new dates for leave. The length of leave should be equivalent to the employee's original request. If no agreement can be reached after consultation the authority will determine the appropriate dates. Leave cannot be postponed where the employee has given twenty-one days' notice prior to the beginning of the EWC to take the leave immediately after the birth. In the case of adoption, leave cannot be postponed (except in exceptional circumstances) where the employee has given twenty-one days' notice of the expected week of placement.
58. The periods during which leave must be taken are:
 - (1) In the case of leave following the birth of a child, by the child's eighth birthday.
 - (2) In the case of adoption, within eight years of the placement or before the child's eighteenth birthday, whichever is the sooner.
 - (3) In the case of a child with a disability, by the child's eighteenth birthday, though authorities may wish to give sympathetic consideration to extending this time limit and/or increasing the amount of leave that can be taken.
59. At the end of parental leave the employee is guaranteed the right to return to his or her current post if the leave was for a period of four weeks or less. If the leave was for a longer period or followed either additional maternity or adoption leave the employee is entitled to return to his or her current post or, if that is not reasonably practicable, a similar post that has the same or better status, terms and conditions as the current post.
- ~~534. Where parental leave lasts for four weeks or less and follows additional maternity leave the employee is entitled to return to the same post as she would have been entitled to return to after her additional maternity leave. If the parental leave is for a longer period than four weeks she can return to the same post as she would have been entitled to return to at the end of her additional maternity leave, unless it is not reasonably practicable to keep that post open. If that is the case, she is entitled to a similar post that has the same or better status, terms and conditions as the old post.~~

Flexible working

60. In order to assist in managing the balance between work and family life, employees with children under the age of **seventeen**, or eighteen in the case of a disabled child, **and carers** have the right to apply to the fire and rescue authority to work flexibly. The authority has a duty under the Employment Rights Act 1996 to consider such requests seriously in line with a set procedure, and will be able to refuse requests only where there are clear business grounds for doing so.

Time off for dependants

61. For the purpose of these provisions a dependant means:
- (1) The employee's spouse.
 - (2) A child of the employee.
 - (3) A parent of the employee.
 - (4) A person who lives in the same household as the employee, otherwise than by reason of being his or her employee, tenant, lodger or boarder.
62. In some cases, such as illness or injury or where care arrangements break down, a dependant may also be someone who reasonably relies on the employee for assistance or to make provisions for care, such as where the employee is the primary carer or the only person who can help in an emergency.
63. An employee is entitled to take a reasonable amount of unpaid time off during his or her working hours in order to take action that is necessary to care for a dependant. Examples of such circumstances are:
- (1) To provide assistance on an occasion when a dependant falls ill, gives birth (this does not include taking time off after the birth to care for the child) or is injured or assaulted.
 - (2) To make arrangements for the provision of care for a dependant who is ill or injured.
 - (3) In consequence of the death of a dependant.
 - (4) To deal with an incident that involves an employee's child and which occurs unexpectedly in a period during which an educational establishment that the child attends is responsible for him or her.
 - (5) To deal with unexpected termination or disruption of care arrangements.
64. Where time off is taken in any of the above circumstances the employee is required to inform the fire and rescue authority as soon as is reasonably practicable of the reason for, and anticipated length of, his or her absence. There may be exceptional circumstances where an employee returns to work before it is possible to contact the authority. In such cases, the authority should still be advised of the reason for absence on return.

APPENDIX B

SCHEME OF CONDITIONS OF SERVICE SIXTH EDITION 2004

PART D - MATERNITY, CHILDCARE AND DEPENDENCY

Maternity provisions

1. As equal opportunities employers, fire and rescue authorities acknowledge that more and more women are coping with the responsibilities of work and home. To this end fire and rescue authorities are committed to creating a positive working environment in which all employees are respected, provided with progression opportunities and can make the most of their abilities within a team.
2. Pregnant employees should expect to be treated in a way that is sensitive to their circumstances and should not in any way be singled out for inferior treatment. Pregnancy should be regarded as part of everyday life and any health and safety implications can be adequately addressed by the usual procedures for the management of health and safety.
3. Nothing in the following provisions, which are minima that may be enhanced locally, should be construed as providing anything less favourable than statutory rights.

Obligations on the employer

4. Fire and rescue authorities should have in place policies that reflect these provisions and any local enhancements. Copies of such policies should be openly available to employees.
5. Pregnant women and new mothers have a statutory entitlement not to be exposed to risks that could harm either themselves or their unborn child. Fire and rescue authorities are reminded that:
 - (1) The Workplace (Health, Safety and Welfare) Regulations 1992 require employers to provide, suitable rest facilities for pregnant women and nursing mothers. This is expanded upon in the Health and Safety Executive guidance *New and Expectant Mothers at Work: A Guide for Employers*.
 - (2) The Management of Health and Safety at Work Regulations 1999 require employers to carry out a risk assessment in respect of new or expectant mothers. Temporary adjustments in working arrangements may be required as a result.

6. Fire and rescue authorities are advised that, when pregnancy is suspected, medical advice should be sought immediately as to whether the employee can continue to perform her current duties. If a point is reached where her doctor advises her that she can no longer perform her current duties, or work her current pattern of hours, the employee should be consulted immediately over appropriate changes. In either case she shall continue to receive her normal pay (for employees on the retained duty system this shall be calculated in accordance with paragraph 36 below). Similarly, on her return to work following the birth and maternity leave, there may be a period during which a change in duties or pattern of working hours would be appropriate, again depending on medical advice, in which case the employee's normal pay would continue to apply.
7. Pregnant employees will normally remain on their watch, or in their department, unless this is deemed inappropriate following an individual risk assessment.
8. On receipt of the employee's notification of the intended date of commencement of maternity leave, the fire and rescue authority shall, within twenty-eight days, inform the employee of the day on which the maternity leave period will cease and of the date of return to work.
9. Contractual benefits such as mobile phones where personal use is permitted and car allowances that are paid under the scheme of conditions of service will continue during maternity leave.

Obligations on the employee

10. In order to maximise the effectiveness of health protection through an individual risk assessment an employee should notify the fire and rescue authority as soon as possible after she becomes aware of her pregnancy. In any event, an employee shall notify the fire and rescue authority at least twenty-one days before her absence begins or as soon as is reasonably practicable:
 - (1) That she is pregnant and the expected week of childbirth (EWC). The fire and rescue authority may ask the employee to produce a certificate from a registered medical practitioner or a certified midwife stating the EWC.
 - (2) The date that her absence will commence, in writing if requested by the fire and rescue authority.
 - (3) That she intends to return to work, if that is the case. The authority may ask for this to be confirmed in writing. (This provision applies only to employees who qualify under paragraph 19 below).
11. As the pregnancy develops the employee should inform the fire and rescue authority, in writing if required, of any advice or recommendations received from her doctor. This may include advice that should be considered as part of the individual's risk assessment, such as night work being inadvisable for health and safety reasons.

Ante-natal care

12. Pregnant employees are entitled to paid time off to attend for ante-natal care, including relaxation and parentcraft classes. The fire and rescue authority may request evidence of appointments.
13. Fire and rescue authorities may wish to give sympathetic consideration, subject to the exigencies of the service, to reasonable time off for partners to attend ante-natal, relaxation and parentcraft classes.

Maternity leave

14. All employees shall be entitled to twenty-six weeks' ordinary maternity leave and twenty-six weeks' additional maternity leave, providing a right to one year's maternity leave in total, (the maternity leave period).
15. Maternity leave shall commence no earlier than eleven weeks before the EWC. Where maternity leave has not commenced by the time of the birth it shall start on the day following the birth.
16. Additional maternity leave commences on the day following the last day of ordinary maternity leave.

Keeping in touch days

17. Employees on maternity leave can return to work on a voluntary basis during their maternity leave for a maximum of ten days. These days are known as Keeping in touch or KIT days. Employees who attend work should receive their normal hourly pay for any hours worked on a voluntary KIT day in addition to their SMP for that week. Any such work must be by agreement between the fire authority and the employee.
18. Mileage and subsistence will be paid in accordance with local practice if KIT days take place away from the employee's usual workplace.

Maternity pay

19. An employee who has less than a year's continuous local government service at the beginning of the eleventh week before the EWC shall receive their entitlement to Statutory Maternity Pay (SMP).
20. An employee who has completed at least a year's continuous local government service at the eleventh week before the EWC shall be entitled to the following:
 - (1) For the first six weeks of absence, nine-tenths of a week's pay offset against SMP, or Maternity Allowance (MA) for employees not eligible for SMP.
 - (2) (a) Where she has declared an intention to return to work, half a week's pay for the subsequent twelve weeks, without deduction except by the extent to which the combined pay and SMP (or MA and any dependants'

allowances if she is not eligible for SMP) exceeds full pay. For the remaining twenty-one weeks, SMP if she is eligible.

(b) Where she does not intend to return to work, SMP for the subsequent thirty-three weeks.

- (3) Payments under (2) shall be on the understanding that the employee shall return to work for at least three months, which may be varied by the fire and rescue authority on good cause being shown. In the event of her not returning to work, the fire and rescue authority may require her to refund all or part of the payments made. Payments made to the employee by way of SMP are not refundable.

Right to return to work

21. Subject to paragraph 22 below, the employee shall have the right to return to the job in which she was employed under her original contract of employment and on terms and conditions not less favourable than those that would have been applicable if she had not been absent. For this purpose 'job' means the nature of the work that she is employed to do and the capacity and place in which she is so employed.
22. Where it is not practicable by reason of redundancy for the authority to permit an employee to return to her work as defined in paragraph 21 above, the employee shall be entitled to be offered a suitable alternative vacancy where one exists, provided that the work to be done in that post is suitable to her and appropriate to the circumstances, and that the capacity and place in which she is to be employed and her terms and conditions of employment are not substantially less favourable to her than if she had been able to return to the job in which she was originally employed.
23. Suitable alternative employment may also be offered if exceptional circumstances other than redundancy (such as a general reorganisation), which would have occurred if the employee had not been absent, necessitate a change in the job in which she was employed prior to her absence. The work to be done should be suitable to her and appropriate to the circumstances and the capacity and place in which she is to be employed and her terms and conditions of employment should not be less favourable to her than if she had been able to return to the job in which she was originally employed.

Return to work before the end of maternity leave

24. An employee shall notify the fire and rescue authority, in writing if requested, at least twenty-one days before she intends to return to work, if this is before the end of her maternity leave period. This notice period may be reduced with the consent of the authority.
25. Any further change of return to work date can only be made where more than eight weeks' notice of the intended date of return has been provided in the first place:

- (1) Where the new date is before the previously provided return to work date an employee must give a fire and rescue service eight weeks' notice of the new date.
- (2) Where the new date is later than the original or previously notified date the fire and rescue service requires eight weeks' notice prior to the original or previously notified return date.

These notice periods may be reduced with the consent of the authority.

26. If an employee returns to work before the end of the maternity leave period without having provided the necessary notice under paragraphs 24 or 25 above, the fire and rescue authority may postpone her return to a date that will ensure that the authority has received the relevant notice, or to the end of the maternity leave period if that is sooner.
27. Where, because of an interruption of work (whether due to industrial action or some other reason), it is unreasonable to expect an employee to return at the end of her maternity leave or on the date notified under paragraph 24 or 25 above, she may instead return when work resumes or as soon as reasonably practicable thereafter.
28. An employee should attend a health check with the occupational health unit before returning to operational firefighting duties.

Relationship with sickness, leave and public holidays

29. Maternity leave will not be treated as sick leave and will not therefore be taken into account in calculating sick leave entitlement.
30. An employee who is unable to return to work on the expected date due to sickness will still be regarded as having returned to work. The sickness should be notified and certified in the same way as any other period of sickness under paragraph 21 of Section 5 Part B. Any pregnancy-related sickness absence must be recorded separately and should not be included in the employee's total sickness absence for disciplinary or redundancy purposes.
31. Maternity leave shall be regarded as service for the purpose of calculating annual leave entitlement.
32. An employee who is on ordinary or additional maternity leave on a public holiday shall be granted a day's leave in lieu of that public holiday.

Premature birth

33. Where a baby is born prematurely the fire and rescue authority should consider the case on its merits and use its discretion to take any appropriate action, which may include extending maternity leave.

Death or still birth of a child

34. These maternity provisions continue to apply where a baby dies or is stillborn after twenty-four weeks' pregnancy. Where a miscarriage occurs before twenty-four weeks the fire and rescue authority should give sympathetic consideration based on the individual circumstances and grant special leave or sick leave as appropriate. The authority's decision should have regard to the needs of the employee and medical opinion.

Definition of a week's pay

35. For employees not on the retained duty system a week's pay means the amount payable to the employee under the current contract of employment for working her normal hours in a week.
36. For employees on the retained duty system a week's pay during a period of maternity leave shall mean the employee's average weekly remuneration in the previous twelve weeks (excluding any week in which they have been on sick leave or have received no pay), taking all payments into account.

Definition of childbirth

37. Childbirth means the birth of a living child or a stillbirth after a pregnancy lasting at least twenty-four weeks.

Maternity support leave (incorporating paternity leave)

38. An employee with less than twenty-six weeks' continuous local government service at the fourteenth week before the EWC and who is the child's father, the expectant mother's partner or the expectant mother's nominated carer shall be entitled to a week's paid maternity support leave (which shall equate to seven consecutive days free from duty). A nominated carer is the person nominated by the mother to assist in the care of the child and to provide support to the mother at or around the time of the birth.
39. An employee who has at least twenty-six weeks' continuous local government service at the fourteenth week before the EWC shall in addition be entitled to a further week's leave (to be taken immediately following the first week). Where eligible this will be paid in accordance with Statutory Paternity Pay (SPP).
40. These provisions also apply to an adoptive mother or father who is not taking adoption leave.
41. Pay for maternity support leave shall be offset by SPP where applicable.

Adoption leave

42. Employees should try to make arrangements for placement and match meetings in their own time. However, where this cannot be accommodated up to three days paid time off will be allowed up to placement.

43. An employee who meets the following criteria is entitled to up to twenty-six weeks' ordinary adoption leave followed by up to twenty-six weeks' additional adoption leave providing a right to one year's adoption leave in total (the adoption leave period):
 - (1) The employee has been newly matched with a child for adoption by an adoption agency.
 - (2) The employee has at least twenty-six weeks' continuous local government service ending with the week in which he or she is notified they have been matched with a child for adoption.
 - (3) Where a couple is adopting jointly, the employee is the adoptive parent (mother or father) chosen by the couple to take adoption leave.
44. During the first week of adoption leave the employee will be entitled to full pay, offset by Statutory Adoption Pay (SAP). For the following 38 weeks of the ordinary adoption leave period the employee will be entitled to SAP if eligible.
45. Leave may commence from either the date of the child's placement (whether this is earlier or later than expected) or a fixed date that can be up to fourteen days before the expected date of placement.
46. The employee shall notify the fire and rescue authority of his or her intention to take adoption leave within seven days of being notified by the adoption agency that he or she has been matched with a child for adoption, unless that is not reasonably practicable. The notification must state when the child is expected to be placed with the employee and when the employee wants the adoption leave to start.
47. The employee must advise the fire and rescue authority at least twenty-eight days in advance if he or she wishes to alter the adoption leave start date.
48. The fire and rescue authority will respond to the employee within twenty-eight days of receiving his or her leave plans, setting out the date on which the authority expects the employee to return to work if the full entitlement to adoption leave is taken.
49. The employee must provide documentary evidence of the adoption where requested by the fire and rescue authority and of his or her entitlement to SAP.
50. An employee who intends to return to work at the end of his or her full adoption leave entitlement is not required to give any further notification to the fire and rescue authority.
51. An employee who wishes to return to work before the end of the adoption leave period must give twenty-eight days' notice to the fire and rescue authority. If such notice is not provided the authority may postpone the return until twenty-eight days from the notice being received, or to the end of the adoption leave period, if sooner.

52. Contractual benefits such as mobile phones where personal use is permitted and car allowances that are paid under this scheme of conditions of service will continue during adoption leave.
53. Employees on adoption leave can return to work on a voluntary basis during their adoption leave for a maximum of ten days. These days are known as Keeping in touch or KIT days. Employees who attend work should receive their normal hourly pay for any hours worked on a voluntary KIT day in addition to their Statutory Adoption Pay (SAP) for that week. Any such work must be by agreement between the fire authority and the employee.
54. Mileage and subsistence will be paid in accordance with local practice if KIT days take place away from the employee's usual workplace.

Parental leave

55. An employee who has successfully completed initial training (or has at least a year's service if that is sooner) and who is one of the following shall be entitled to up to thirteen calendar weeks' unpaid parental leave (eighteen weeks if the child has a disability) in parts or in a block following the birth or adoption of a child:
 - (1) The mother of the child.
 - (2) The father of the child if he was married to the mother at the time of birth or is registered as the child's father.
 - (3) The father (if not covered by (2)) if he has acquired parental responsibility under the Children Act 1989 or Children (Scotland) Act 1985. This is done either by a court order or an agreement between the mother and father that complies with legal requirements.
 - (4) A guardian appointed under Section 5 of the Children Act 1989.
 - (5) An adoptive parent.
 - (6) Any other nominated carer where the fire and rescue authority is satisfied that that person is taking parental responsibility.
 - (7) A step-parent if they have acquired parental responsibility under the Children Act 1989 either through a court order or an agreement between the mother (or mother and father) and the step-parent which complies with certain legal requirements.
 - (8) A special guardian as referred to in section 14C of the Children Act 1989.
56. The employee must give the fire and rescue authority reasonable notice (a minimum of twenty-one days) when leave is to be taken.
57. Where there are pressing operational reasons the fire and rescue authority may postpone parental leave for no longer than six months from the start of the period requested. (Pressing operational reasons include circumstances where a replacement cannot be found during the notice period for a post that has to be filled or where a significant number of employees have applied for parental leave at the same time). Where the authority requires such postponement, the situation should firstly be discussed with the employee. The employee must then be advised, in writing, no later than seven days after giving notice to take leave, of the reason for the postponement and the new dates for leave. The length of leave

should be equivalent to the employee's original request. If no agreement can be reached after consultation the authority will determine the appropriate dates. Leave cannot be postponed where the employee has given twenty-one days' notice prior to the beginning of the EWC to take the leave immediately after the birth. In the case of adoption, leave cannot be postponed (except in exceptional circumstances) where the employee has given twenty-one days' notice of the expected week of placement.

58. The periods during which leave must be taken are:
- (1) In the case of leave following the birth of a child, by the child's eighth birthday.
 - (2) In the case of adoption, within eight years of the placement or before the child's eighteenth birthday, whichever is the sooner.
 - (3) In the case of a child with a disability, by the child's eighteenth birthday, though authorities may wish to give sympathetic consideration to extending this time limit and/or increasing the amount of leave that can be taken.
59. At the end of parental leave the employee is guaranteed the right to return to his or her current post if the leave was for a period of four weeks or less. If the leave was for a longer period or followed either additional maternity or adoption leave the employee is entitled to return to his or her current post or, if that is not reasonably practicable, a similar post that has the same or better status, terms and conditions as the current post.

Flexible working

60. In order to assist in managing the balance between work and family life, employees with children under the age of seventeen, or eighteen in the case of a disabled child, and carers have the right to apply to the fire and rescue authority to work flexibly. The authority has a duty under the Employment Rights Act 1996 to consider such requests seriously in line with a set procedure, and will be able to refuse requests only where there are clear business grounds for doing so.

Time off for dependants

61. For the purpose of these provisions a dependant means:
- (1) The employee's spouse.
 - (2) A child of the employee.
 - (3) A parent of the employee.
 - (4) A person who lives in the same household as the employee, otherwise than by reason of being his or her employee, tenant, lodger or boarder.
62. In some cases, such as illness or injury or where care arrangements break down, a dependant may also be someone who reasonably relies on the employee for assistance or to make provisions for care, such as where the employee is the primary carer or the only person who can help in an emergency.

63. An employee is entitled to take a reasonable amount of unpaid time off during his or her working hours in order to take action that is necessary to care for a dependant. Examples of such circumstances are:
- (1) To provide assistance on an occasion when a dependant falls ill, gives birth (this does not include taking time off after the birth to care for the child) or is injured or assaulted.
 - (2) To make arrangements for the provision of care for a dependant who is ill or injured.
 - (3) In consequence of the death of a dependant.
 - (4) To deal with an incident that involves an employee's child and which occurs unexpectedly in a period during which an educational establishment that the child attends is responsible for him or her.
 - (5) To deal with unexpected termination or disruption of care arrangements.
64. Where time off is taken in any of the above circumstances the employee is required to inform the fire and rescue authority as soon as is reasonably practicable of the reason for, and anticipated length of, his or her absence. There may be exceptional circumstances where an employee returns to work before it is possible to contact the authority. In such cases, the authority should still be advised of the reason for absence on return.

JOINT STATEMENT FROM EMPLOYER AND EMPLOYEE SIDE REPRESENTATIVES IN RELATION TO MATERNITY, PATERNITY, ADOPTION AND OTHER ASSOCIATED MATTERS

We recognise the importance of having terms and conditions that are affordable, but also attractive to the potential future labour market and sufficiently appealing to retain our existing employees. This becomes particularly important when we relate it to the business case for more diverse fire and rescue services. We also recognise that arrangements relating to maternity, paternity and adoption (and consequential implications) can be significant to those who are, or may in the future be, considering having a family.

Whilst our national agreement forms the foundation for maternity, paternity and adoption provisions, clearly it may be amended by local agreement as per the Grey Book to meet the business needs of individual fire and rescue services. This may become more relevant where, for example, FRS's find they have specific local recruitment or retention problems.

We would encourage all FRS's to consider the business benefits of local agreements tailored to the individual circumstances of each Fire and Rescue Service and would jointly recommend consideration of the following in the appropriate and relevant circumstances:

- Return to work programmes for individuals including refresher training and updating of skills
- Paid time off to attend postnatal clinics or parenting classes
- Encouragement to consider supporting activities related to fitness during pregnancy and on return to work
- In the case of miscarriage or stillbirth considering access to counselling or other necessary support
- Local arrangements for employees who are, or are seeking to become, foster parents either on a short or long term basis
- The lead adoptive parent to be treated in the same way as pregnant employees. The partner of the lead adoptive parent to be treated in the same way as the partner of a pregnant employee
- The provision of maternity wear designed specifically for that purpose taking into account the role and duties to be undertaken

- Making reasonable time off arrangements for employees undergoing fertility treatment

Individuals/line managers often have to discuss and/or seek advice about some very personal and sensitive issues that may be rarely encountered, (for example around fertility treatment; premature birth; etc.) and it is important that consistency of treatment is achieved. It may therefore be helpful for FRSs to nominate an 'expert' practitioner, whose role is likely to involve understanding and interpreting local policies, listening and giving advice to individuals. It is recognised that an individual may also seek the support of their trade union representative.

None of the above is intended to be prescriptive. Employers are encouraged to make arrangements with their local trade union representatives in taking forward any considerations into a local agreement.

SARAH MESSENGER
MATT WRACK
Joint Secretaries